IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

WP(C).No. 9189 of 2006(R)

CRIME NOS.78 OF 2005, 15 OF 2006 & 16 OF 2006-ALL OF SAS EXCISE RANGE

.....

PETITIONER:

---

1. PADMAKARAN, S/O.GOPALAKRISHNAN,
   LICENSEE TS NO.4/05-06 SASTHAMKOTTA EXCISE RANGE,
   RESIDING AT JANARDHANA BHAVANAM VEEDU,
   KULASEKHARAPURAM MURI, ADINADU VILLAGE,
   KARUNAGAPALLY, KOLLAM DISTRICT.

2. BIJU JOSEPH, S/O.BABU,
   LICENSEE TS.NO.12/05-06 SASTHAMKOTTA EXCISE RANGE,
   RESIDING AT PADIPPURA VEEDU, KADAMPANADU MURI,
   ADOOR, PATHANAMTHITTA DISTRICT.

3. JAYADEVAN, S/O.JANARDHANAN,
   LICENSEE TS.NO.14/05-06 SASTHAMKOTTA EXCISE
   RANGE, RESIDING AT GEETHA BHAVANAM,
   ALAPPADU MURI, KARUNAGAPALLY, KOLLAM DISTRICT.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS:

---

1. THE STATE OF KERALA, REPRESENTED BY
   THE EXCISE INSPECTOR, EXCISE RANGE OFFICE,
   SASTHAMCOTTA, KOLLAM DISTRICT.

2. THE ASSISTANT EXCISE COMMISSIONER,
   KOLLAM.

3. THE COMMISSIONER OF EXCISE,
   KERALA STATE PUBLIC OFFICE BUILDING,
   MUSEUM, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.S.U.NAZER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:TRUE COPY OF THE MAHAZAR PREPARED BY THE 1ST RESPONDENT DT.1.9.05.

EXT.P1(a):TRUE COPY OF THE MAHAZAR PREPARED BY THE 1ST RESPONDENT DT.25.11.05.

EXT.P1(b):TRUE COPY OF THE MAHAZAR PREPARED BY THE 1ST RESPONDENT DT.25.11.05.

EXT.P2: TRUE COPY OF THE CHEMICAL ANALYSIS REPORT NO.7238 DT.19.9.05.

EXT.P2(a):TRUE COPY OF THE CHEMICAL ANALYSIS REPORT NO.10529 DT.8.12.05.

EXT.P3:TRUE COPY OF THE FIR IN CRIME NO.78/05 OF SASTHAMCOTTAH EXCISE RANGE SUBMITTED BY THE 1ST RESPONDENT BEFORE THE J.F.C.M, SASTHAMCOTTA.

EXT.P3(a):TRUE COY OF THE FIR IN CRIME.15/06 OF SASTHAMCOTTA EXCISE RANGE SUBMITTED BY THE 1ST RESPONDENT BEFORE THE J.F.C.M, SASTHAMCOTTA.

EXT.P3(b):TRUE COY OF THE FIR IN CRIME.16/06 OF SASTHAMCOTTA EXCISE RANGE SUBMITTED BY THE 1ST RESPONDENT BEFORE THE J.F.C.M, SASTHAMCOTTA.

EXT.P4:TRUE COPY OF THE REPORT SUBMITTED BY THE 1ST RESPONDENT DT.23.3.06.

EXT.P4(A):TRTUE COPY OF THE REPORT SUBMITTED BY THE 1ST RESPONDENT DT.23.3.2006.

EXT.P5:TRUE COPY OF THE ORDER IN WRIT PETITION NO.8794/06 DT.23.3.06.

EXT.P6: TRUE COPY OF THE JUDGMENT IN W.P(C) NO.8794/06 DT.31.7.06 OF THE HIGH COURT.

/TRUE COPY//

P.A TO JUDGE

R.BASANT, J

W.P(C).No.9189 of 2006

Dated this the 20th day of March, 2007

JUDGMENT

The learned counsel for the petitioners prays, the learned Government Pleader does not oppose the said prayer and I am satisfied that in the light of the decision in **State of Kerala and Others v. Unni and another** [2007(1) KLJ (S.C) 97], this prosecution in which the only allegation is that the percentage of Ethyl Alcohol exceeds the permissible figure cannot be sustained. This Writ Petition is, in these circumstances, allowed. All proceedings in pursuance of Crime Nos.78 of 2005, 15 of 2006 and 16 of 2006, all of Sasthamkotta Excise Range against the petitioners are hereby quashed.

(R.BASANT, JUDGE)

rtr/-